HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19483 of 2006

Date: 26th December, 2006

Between :-

M. Sree Rama Reddy and another .. Petitioners

And

The Gram Panchayat rep. by
Its Secretary, Kattavapadu,
Iragavaram Mandal,
West Godavari District and another .. Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19483 of 2006

ORDER:-

This Court ordered *notice before admission* on 20-9-2006 and granted *status quo* for a limited period, which is being extended from time to time.

2. Counter affidavits are filed by the 1st respondent and 2nd respondent.

3. The writ petitioners filed the present Writ Petition for a Writ of Mandamus declaring the action of the respondents in dispossessing the petitioners, who are license-holders under License No.21/79-80 dt.10-10-1979 in RS No.84 of Kattavapadu village without following the due process of Law as arbitrary, illegal and capricious and consequently direct the respondents not to alter the Agricultural Bodi existed in RS No.84 of Kattavapadu village catering the irrigation needs of lands of petitioners situated in RS No.205, 206, 207 and 217 of Kanteru village and pass such other suitable orders.

4. It is stated that the first petitioner is the absolute owner and possessor of an extent of wet land of Ac.1.63 cents in RS No.207 of Kantheru village and also an extent of Ac.5.16 cents of wet land in RS No.217 of the said village and that he is in peaceful possession and

enjoyment of the said land by cultivating the same and the 2nd respondent issued Pattadar Pass Books bearing Nos.156863 and 49036 for the respective lands in the name of the 1st petitioner. It is further stated that the second petitioner is the absolute owner and possessor of wet land of Ac.0.30 ½ cents in RS No.205 and an extent of Ac.0.94 cents in RS No.906 in Kanteru village and the 2nd respondent issued Pattadar Pass Book bearing No.147405 for the said lands in the name of the 2nd petitioner. It is also stated that first respondent being the owner of the land adjacent to RS Nos.205, 206 and 207 of Kanteru village, which is situated in RS Nos.84 and 85 of Kattavapadu village, accorded license bearing No.21/79-80 dated 10-10-1979 to raise coconut trees across the Government land adjacent to Agricultural Bodi and the said license is in operation as on today and the petitioners are enjoying the said lands as lessees by paying fees from time to time under valid receipts. It is also further stated that RS No.84 of Kattavapdu village is an extent of Ac.4.14 cents and in the said land one Panta Kalva (Agricultural Bodi) at 205 links running from West to East adjacent to lands covered under RS Nos.205, 207 and 217 of lands situated in Kanteru village. The said Bodi was also shown in Field Measurement Book of

respondent records and now the respondents are trying to alter the said Bodi by converting into Poramboke and intended to allot the converted land to landless poor persons. It is also stated that the petitioners do not have any objection for distribution of Government Poramboke land to landless poor person but the respondents arbitrarily altering the Pantakalva (Agriculture Bodi) from the existing place at 205 links running from West to East to the lands of petitioners. It is further stated that the petitioners are licensees of land in RS No.84 of Kattavapadu village to raise coconut trees from 1979 onwards and there were no proceedings either to cancel or alter the said license. It is also stated that the first respondent had collected licence fee for the year 2005-06 under receipt No.25478 dt.18-8-2006. Several other factual details also had been narrated.

5. In the counter affidavit filed by the first respondent, it is averred in para 2 that the Government had launched Indiramma Programme providing house-sites to all Weaker Section people which is one of the objectives of the programme and Kattavapadu is one of the 10 villages identified under this programme in Iragavaram Mandal. It is also stated that the Government land should be preferred if available for the purpose of providing house-sites instead of acquisition of private land. It is further

stated that there exists a Bhodi Poramboke in RS No.84 measuring total extent of Ac.4-14 cents and an extent of Ac.1.14 cents were encroached by Ganta China Veeranna and two others of Kattavapadu village and paddy crop was raised. It is also further stated that an extent of Ac.3.00 cents is available for providing house-sites and 118 beneficiaries were identified, lay out also was prepared. It is also stated that house-site pattas also were distributed to the beneficiaries pending approval of conversion proposal. It is also stated that in northern and southern sides Bodi exists and the land surrounded by these two, western side 1.14 of RS No.84 i.e., encroached land and Eastern side RS No.71 i.e., Ac.3.00 cents used for house-site pattas, but still possession was not given to the beneficiaries. It is also stated that the petitioners' apprehension is that the Bodi may be altered due to issue of pattas and handing over possession and tree pattas which were sanctioned to the coconut trees raised along the boundaries and within the Bodi Poramboke land will become useless and hence the petitioners approached this Court and filed the Writ Petition. It is also stated in para 3 of the counter affidavit that it is an admitted fact that the first respondent being the owner of the lands in R.S.No.73/2, 82/1 and 2 of Kattavapadu (v), adjacent of

the R.S.No.84 (land in question) and 85, accorded licence to raise coconut trees in the adjacent land to Agricultural Bodi and as such they are enjoying the said lands by paying fees. It is also stated that the tree pattas were granted by the Group Executive Officer and granting of tree patta does not mean granting of permanent right over the land. It is further stated that condition No.9 of the patta clearly states that the whenever either Gram Panchayat or State Government or Central Government wants the land for which licence was given, for some other purpose, the Executive Officer has every right to take back the possession of the land by cancelling the tree patta without paying any compensation and there is no right for the Pattadar to claim compensation. It is also further stated that now the Government is giving top priority to provide house-sites under Indiramma Programme and so pattas were issued in Government land in R.S.No.84. It is further stated that the petitioners cannot come to a conclusion that the distance between their lands and agricultural Bodi is 28 links without conducting proper survey by surveyor and as per the measurements in the FMB only the land Ac.3-00 (Bodi poramboke) will be separated and possession will be handed over to pattadars. It is further stated that the petitioners' apprehension of altering bodi is baseless and as per FMB only possession will be handed

over.

6. In the counter affidavit filed by the 2nd respondent, it is stated that it is a fact that licence bearing No.21/79-80 dt.10-10-1979 was granted in favour of the first petitioner to raise coconut trees across the Government land, adjacent to agricultural Bodi i.e., Panta Kalva. It is also averred in para 6 of the counter affidavit of R.2 that the said licence does not give any right to the petitioners over the land and as per condition No.9 of the licence, it is made clear that whenever the said land is required by the Gram Panchayat or the State Government or the Central Government, the land can be taken over by the Government without payment of any compensation and the licence-holder does not have any right to claim compensation. It is also averred that the Government has come out with a policy decision to provide house-site pattas to the weaker Sections and Kattavapadu village was identified and selected for providing house-sites to the weaker section persons and therefore, the Government had identified R.S.No.84, where there is a Government land, for providing house-sites to the weaker sections and in fact, house-site pattas were issued in favour of 118 beneficiaries and possession has to be delivered to them. Further specific stand is taken that no

such steps were undertaken by the respondents seeking to alter the agricultural Bodhi and hence absolutely there are no merits in the Writ Petition. Further stand is taken that in the light of the *status quo* order made by this Court, though the beneficiaries were identified and pattas were granted to them, the possession could not be delivered to them.

7. In the light of the facts and circumstances well explained, especially condition No.9 of the licence and also the further stand taken that the respondents are not contemplating to alter the Agricultural Bodhi, this Court is of the considered opinion that the Writ Petition be disposed of recording the stand taken by the respondents that at present the respondents are not intending to alter the Bodhi and the same is hereby recorded.

8. Accordingly, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

26th December, 2006

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